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IN THE UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

THE ASTOUND GROUP, a Nevada
corporation

Plaintiff,

vs.

FARADAY FUTURE, a California
corporation

Defendant.

CASE NO.:

COMPLAINT

COMES NOW, Plaintiff The Astound Group, Inc. ("Astound"), through undersigned counsel, the law firm of Dickinson Wright, PLLC, and brings this Complaint against Defendant, Faraday Future ("Faraday") and alleges as follows:

PARTIES AND JURISDICTION

1. Plaintiff Astound is a Nevada corporation, duly authorized to conduct business in Clark County, Nevada.

2. Upon information and belief, Defendant Faraday is a corporation with its principal place of business in California, conducting business in Clark County, Nevada.

3. This Court has subject matter jurisdiction over the matter pursuant to 28 U.S.C. § 1332 because Astound is a citizen from a state different from Defendant and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

4. Venue is proper in this court because this action concerns facts, acts, events, and

1 circumstances described herein occurred in Clark County, Nevada.

2 **GENERAL ALLEGATIONS**

3 5. Faraday is a technology company focused on the development of intelligent electric
4 vehicles.

5 6. Astound is a global design and fabrication house, building end-to-end solutions for
6 events, exhibits and environments.

7 7. In October of 2016, Faraday engaged Astound to provide design and fabrication
8 services for multiple upcoming projects and events, including the Stealth Labs 2016 Project
9 (“Stealth Labs”), the 2017 Consumer Electronics Show Launch Event (the “CES 2017 Launch
10 Event”), and the 2017 Consumer Electronics Show Booth (the “2017 CES Booth”; collectively
11 referred to as the “Projects”).
12

13 8. Astound provided Faraday with a proposed Memorandum of Agreement (the
14 “MOA”) in regards to the Projects, as well as proposals projecting costs for the Projects.
15

16 9. Prior to the execution of the MOA or the proposals for the Projects, on September
17 11, 2016, the Event Production Manager for Faraday, Dustin O’Neill (“O’Neill”), notified Astound
18 to start working on the Projects in light of quickly approaching deadlines and continuously
19 reassured Astound that the MOA would be signed.

20 10. Additionally, there was consistent verbal confirmation and reinforcement of the
21 agreement between Faraday and Astound from all employees and directors at Faraday, including
22 the Managing Director.
23

24 11. Individuals at Astound were working almost exclusively on the Projects for Faraday
25 for several months.

26 12. The Managing Director and design directors at Faraday were undeniably aware of
27 the work that Astound was doing for Faraday and were actively engaging with Astound in on site
28 meetings at Faraday.

1 13. The working relationship between Faraday and Astound was a cross company,
2 cross departmental and multiple agency effort to get the Projects completed.

3 14. Despite representations otherwise, Faraday never returned signed copies of the
4 MOA or proposals to Astound.
5

6 **Stealth Labs 2016 Project**

7 15. There was an initial verbal agreement between Astound and Faraday for work on
8 Stealth Labs. Specifically, O'Neill provided instructions to Astound to move forward with Stealth
9 Labs, as well as the approaching deadlines and instructions to comply with those deadlines.

10 16. On October 3, 2016, Astound provided Faraday with an initial proposal and request
11 for a 40% down payment due to the expedited and urgent nature of the Stealth Labs (the "Stealth
12 Labs Proposal"). (See Stealth Labs Proposal, attached hereto as **Exhibit 1**.)
13

14 17. The Stealth Labs Proposal outlined the projected costs for the project, along with
15 terms and conditions of payment including 1.5% interest on all overdue payments.

16 18. On October 4, 2016, O'Neill responded to Astound noting that the Stealth Labs
17 Proposal "looks great" and that he did "not foresee a problem pushing [the proposal] through and
18 getting payment set up."
19

20 19. In reliance upon these statements, Astound continued working on Stealth Labs.
21 However, Astound was never provided an executed proposal or the requested down payment.

22 20. In relation to Stealth Labs, Astound provided services for Faraday, including, but
23 not limited to, over three months of planning for the event, multiple site visits, in-person meetings
24 and conference calls.

25 21. The specific services charged for are outlined on Invoice No. 2016846 (the "Stealth
26 Labs Invoice"). (See Stealth Labs Invoice, attached hereto as **Exhibit 2**.)
27
28

1 22. Throughout the project, Astound was working in conjunction with multiple
2 individuals at Faraday, which is evidenced by email correspondence and call logs, evidencing that
3 Faraday was well aware of and consented to the work being done by Astound.

4 23. The Stealth Invoice for \$837,455.06 was due on November 3, 2016.

5 24. Pursuant to the terms and conditions on the Stealth Labs Proposal, interest at 1.5%
6 per month is charged on all overdue payments.
7

8 25. Consequently, a total of \$200,989.21 in interest has incurred on the Stealth Labs
9 Invoice to date, bringing the total amount owed on the Stealth Labs Invoice to \$1,038,444.27.

10 **CES 2017 Launch Event**

11 26. Faraday also contracted with Astound to perform services in preparation for and at
12 the CES 2017 Launch Event.

13 27. Astound provided Faraday with proposals for the CES 2017 Launch Event (the
14 “CES Launch Proposals”). (See CES Launch Proposals, attached hereto as **Exhibit 3**.)
15

16 28. The CES Launch Proposals outlined the projected costs for the project, along with
17 terms and conditions of payment including 1.5% interest on all overdue payments.

18 29. Faraday made some payments to Astound for services provided in relation to the
19 CES 2017 Launch Event. However, there is an outstanding invoice for services and items that
20 were provided onsite at the event.
21

22 30. As evidenced by Invoice No. 2017198 (the “CES Launch Invoice”), Faraday was
23 invoiced \$322,274.00 for services provided by Astound in relation to the CES 2017 Launch Event.
24 (See CES Launch Invoice, attached hereto as **Exhibit 4**.)

25 31. Specifically, the CES Launch Invoice was for items on Change Order 05 to extend
26 the properties for the Ride and Drive at the event, as well as the overage for the additional generator
27 gas used.
28

1 42. Payment was due on the Booth Invoice on November 10, 2016.

2 43. Pursuant to the terms and conditions on the proposal for the CES 2017 Booth,
3 interest at 1.5% per month is charged on all overdue payments.

4 44. As such, a total of \$15,357.65 in interest has incurred on the Booth Invoice to date,
5 bringing the total amount owed on the Booth Invoice to \$72,237.85.

6 45. Astound attempted to collect on the foregoing invoices in direct communication
7 with Faraday and provided documentation supporting the collection efforts on multiple occasions.

8 46. Once it became apparent that Faraday was misrepresenting its intentions to make
9 payments, Astound was forced to retain counsel.

10
11 **FIRST CAUSE OF ACTION**

12 **(Breach of Contract)**

13 47. Astound incorporates Paragraphs 1-46 as though fully set forth herein.

14 48. An enforceable contract requires an offer and acceptance, meeting of the minds,
15 and consideration.

16 49. A contract is implied-in-fact where “manifested by conduct.”

17 50. To find a contract implied-in-fact, the fact-finder must conclude that the parties
18 intended to contract and promises were exchanged, the general obligations for which must be
19 sufficiently clear.

20 51. Faraday and Astound had an enforceable contract implied-in-fact for the work
21 completed on each of the Projects.

22 52. Faraday requested and was provided with written proposals for the Projects, which
23 Faraday failed to sign and return.

24 53. However, it is very clear that Faraday approved the proposals and terms therein
25 through verbal and written communications, as well as course of conduct between the parties.

26 54. Astound provided various services on the Projects, at the express direction and with
27 full approval of Faraday.

1 55. In fact, Faraday was working directly with Astound on moving the Projects
2 forward.

3 56. The conduct between the two parties undoubtedly constitutes an intention to
4 contract based upon the terms and conditions set forth by Astound.

5 57. Faraday breached the terms and conditions set forth by Astound in failing to
6 compensate Astound for its services as identified in the Invoices.

7 58. Astound has incurred damages as a result of Faraday's conduct as specified herein
8 in an amount to be proven at trial.

9 59. Astound has been required to retain the services of legal counsel and is entitled to
10 recovery of its fees and costs that it has and will continue to incur in this matter.

11 **FIRST CAUSE OF ACTION**

12 **(Breach of Covenant of Good Faith and Fair Dealing)**

13 60. Astound incorporates Paragraphs 1-59 as though fully set forth herein.

14 61. Every contract imposes upon the contracting parties the duty of good faith and fair
15 dealing.

16 62. Astound and Faraday entered into binding contracts in relation to the Projects.

17 63. Under each of those contracts, Faraday owes a duty to Astound to act in good faith
18 and fair dealing.
19

20 64. Faraday has undeniably breached its duty by approving the work done by Astound
21 and continuing to promise execution of contracts and resolution of the Invoices with no intention
22 of actually doing so.

23 65. Instead, Faraday continues to delay payment in bad faith by repeatedly asking for
24 documents and materials that have been provided multiple times.
25

26 66. Astound has incurred damages as a result of Faraday's conduct as specified herein
27 in an amount to be proven at trial.

28 67. Astound has been required to retain the services of legal counsel and is entitled to

1 recovery of its fees and costs that it has and will continue to incur in this matter.

2 **THIRD CAUSE OF ACTION**

3 **(Promissory Estoppel/Detrimental Reliance)**

4 68. Astound incorporates Paragraphs 1-67 as though fully set forth herein.

5 69. Based upon the representations of Faraday, particularly those of O'Neill, Astound
6 began working on the Projects.

7 70. Astound provided Faraday with a budget proposal for each of the Projects, at
8 Faraday's request.

9 71. Faraday, through O'Neill, reassured Astound that the proposals were reasonable,
10 would be executed and that payment would be made.

11 72. Astound reasonably relied upon Faraday's representations and continued to provide
12 services in relation to the Projects in order to ensure that Faraday met its tight deadlines.

13 73. Astound is now out of a substantial amount of fees and out of pocket costs incurred
14 in relation to the Projects.

15 74. Astound has incurred damages as a result of Faraday's conduct as specified herein
16 in an amount to be proven at trial.

17 75. Astound has been required to retain the services of legal counsel and is entitled to
18 recovery of its fees and costs that it has and will continue to incur in this matter.

19 **FOURTH CAUSE OF ACTION**

20 **(Unjust Enrichment)**

21 76. Astound incorporates Paragraphs 1-75 as though fully set forth herein.

22 77. It is undisputed that Astound conferred its services on the Projects and Faraday
23 accepted and retained the benefit of those services.

24 78. Astound provided Faraday with various tangible designs and plans in relation to the
25 Projects.

26 79. Astound also traveled to attend in person meetings at the request of Faraday and
27 was involved on countless telephone conferences to discuss the Projects.

1 80. It would be inequitable for Faraday to appreciate the benefit of all of the services
2 provided by Astound without payment for the value thereof.

3 81. Astound has incurred damages as a result of Faraday's conduct as specified herein
4 in an amount to be proven at trial.

5 82. Astound has been required to retain the services of legal counsel and is entitled to
6 recovery of its fees and costs that it has and will continue to incur in this matter.

7 **PRAYER FOR RELIEF**

8 WHEREFORE Astound prays for relief as follows:

- 9 1. For an award of damages in an amount to be proven at trial, in excess of \$75,000.00;
10 2. For an award of its attorneys' fees and costs incurred herein; and
11 3. For such other and further relief as this Court may deem just and proper.
12

13 DATED this 29th day of May 2018

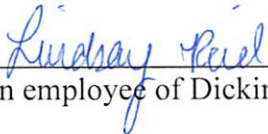
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25 *Attorneys for Plaintiff The Astound Group*
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 29th day of May 2018, I served a true and correct copy of the foregoing **COMPLAINT** by electronic service in accordance with Administrative Order 14.2, to all interested parties, through the Court's **CM/ECF ELECTRONIC NOTIFICATION** system addressed to:


An employee of Dickinson Wright PLLC